

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Dwight Eggerman
DOCKET NO.: 05-02493.001-F-1
PARCEL NO.: 17-13-30-100-003-1

The parties of record before the Property Tax Appeal Board are Dwight Eggerman, the appellant, and the Christian County Board of Review.

The subject property consists of a rural parcel upon which is situated a 1998 mobile home that contains 1,680 square feet of living area.

The appellant appeared before the Property Tax Appeal Board claiming the subject dwelling was improperly classified and assessed as real estate. The appellant did not contest the subject's homesite or farmland assessments. In support of his argument, the appellant submitted a copy of the Certificate of Title of a Vehicle describing a 1,680 square foot mobile home. The appellant also submitted a copy of the Sales Tax Transaction Return for the mobile home, indicating the sales price of the manufactured home was \$51,375, upon which sales taxes of \$3,211 were paid on August 6, 1998. The appellant further submitted a copy of a request for a "Special Use" zoning permit to place the home in an agricultural district. The appellant also submitted photographs of the underside of the subject dwelling, depicting the steel frame of the home resting on piers of un-mortared concrete blocks with wood blocking or shims. Finally, the appellant submitted a copy of Christian County Board of Review v. Property Tax Appeal Board, et. al., 368 Ill. App. 3d 792 (5th Dist. 2006). Based on this evidence, the appellant requested the subject's total assessment be reduced to \$4,655 and its improvement assessment be reduced to \$0.

During the hearing, the appellant testified there is a "floating slab" of concrete under the subject dwelling, into which are embedded to a depth of about one inch, metal straps that go around the steel beams of the home's frame. The appellant also testified there is a continuous concrete block perimeter wall

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Christian County Board of Review is warranted. The correct assessed valuation of the property is:

PARCEL NO.	FARMLAND	HOMESITE	RESIDENCE	TOTAL
17-13-30-100-003-01	\$400	\$4,255	\$0	\$4,655

Subject only to the State multiplier as applicable.

under the dwelling, but that the home is not resting on this wall, there are no bolts that anchor the dwelling to this wall, and that a gap exists between the wall and the dwelling.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$26,253 was disclosed. In support of the subject dwelling's classification and assessment as real estate, the board of review submitted an extensive letter prepared by the supervisor of assessments, the subject's property record card, a photograph of the subject, a copy of the appellant's mortgage, an article entitled "A History of the General Property Tax in Illinois", a document describing foundations and anchoring of manufactured homes, a "Regulation of Factory Built Structures in Illinois" published by the Illinois Department of Public Health, copies of Real Estate Transfer Declarations documenting sales of several mobile homes, a page from the Illinois Real Property Appraisal Manual which includes a base cost schedule for mobile homes and several screen prints of pages from the website of the U.S. Department of Housing and Urban Development (HUD) that describe HUD requirements regarding manufactured homes on permanent foundations.

The board of review's letter claimed "manufactured homes that are regulated by HUD, built to the HUD building code, and are required to be on a HUD approved permanent foundation as set forth in the HUD Permanent Foundation Guide for Manufactured Homes, should be assessed and taxed as real property." The letter went on to explain the history of taxation of mobile homes in Illinois, claiming that prior to 1970, "mobile homes were assessed and taxed as real property if the land and the home were owned by the same person . . ." "The vast majority of mobile homes outside of mobile home parks were assessed and taxed as real property, especially if the owner of the home also owned the land." The letter went on to state "it was the intention of the State Legislature that the privilege tax be a temporary tax on mobile homes not paying real property tax until such time the legislature could write a law that would make those homes not taxed as real property pay a tax comparable to the property tax. In 1973, the so called privilege tax was, in most cases of the areas of the state with lower tax rates, a higher tax on the mobile home than what was the property tax (sic)." The letter continued to discuss manufactured homes that were regulated by the Federal Government and built to the HUD Building Code. "These HUD homes were required to be built on a chassis and had to be installed and set up according to the manufacturer's specifications to be safe and secure on a HUD approved permanent foundation." The letter then observed that "the Department of Public Health is responsible for enforcing the HUD setup standards." Finally, the letter contends the Property Tax Appeal Board has erroneously rendered numerous decisions lowering

assessments of properties upon which manufactured homes are situated because the Board has misinterpreted Illinois statutes and misunderstood the intent of the Legislature regarding various definitions of foundations and other factors related to manufactured homes.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The appellant argued the subject property was incorrectly classified and assessed as real property. The Board finds the record supports this claim.

The appellant argued that the subject dwelling is a mobile home and was improperly classified and assessed as real estate. Section 1-130 of the Property Tax Code defines real property in part as:

The land itself, with all things contained therein, and also buildings, structures and improvements, and other permanent fixtures thereon, . . . and all rights and privileges belonging or pertaining thereto, except where otherwise specified by this Code. Included therein is any vehicle or similar portable structure used or so constructed as to permit its use as a dwelling place, if the structure is resting in whole on a permanent foundation (35 ILCS 200/1-130).

Additionally, section 1 of the Mobile Home Local Services Tax Act defines a mobile home as:

a factory assembled structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, and placement on a temporary foundation, at which it is intended to be a permanent habitation, and situated so as to permit the occupancy thereof as a dwelling place for one or more persons, provided that any such structure resting in whole on a permanent foundation, with wheels, tongue and hitch removed at the time of registration provided for in Section 4 of this Act, shall not be construed as a 'mobile home', but shall be assessed and taxed as real property as defined by Section 1-130 of the Property Tax Code. (35 ILCS 515/1).

Finally, Section 870.10 of the Manufactured Home Installation Code provides:

"Manufactured home" is synonymous with "mobile home" and means a structure that is factory-assembled, completely integrated structure designed for permanent habitation, with a permanent chassis and so constructed as to permit its transport, on wheels temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, at which it is placed on a support system for use as permanent habitation, and designed and situated so as to permit its occupancy as a dwelling place for one or more persons; provided, that any such structure resting wholly on a permanent foundation, as defined in this Part, shall not be construed as a mobile home or manufactured home. The term "manufactured home" includes manufactured homes constructed after June 30, 1976 in accordance with the federal National Manufactured Housing Construction and Safety Standards Act of 1974 and does not include an immobilized mobile home as defined in Section 2.10 of the Mobile Home Park Act. [430 ILCS 117/10} (77 Ill.Admin.Code 870.10).

The Property Tax Appeal board finds the Property Tax Code, the Mobile Home Local Services Tax Act and Manufactured Home Installation Code require that a factory assembled structure, vehicle or similar portable structure used or so constructed as to permit its use as a dwelling place, and constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, at which it is intended to be a permanent habitation, to be resting in whole on a permanent foundation before it can be classified and assessed as real estate. Absent a permanent foundation a mobile home is subject to the privilege tax provided by the Mobile Home Local Services Tax Act. Lee County Board of Review v. Property Tax Appeal Board, 278 Ill.App.3d 711, 719 (2nd Dist. 1996); Berry v. Costello, 62 Ill.2d 342, 347 (1976). The Property Tax Code and the Mobile Home Local Services Tax Act identify the determining factor in classifying a mobile home as real estate as being the physical nature of the structure's foundation. Lee County Board of Review v. Property Tax Appeal Board, 278 Ill.App.3d at 724.

Neither the Property Tax Code nor the Mobile Home Local Services Tax Act defines "permanent foundation." However, the Board may look to other statutes that relate to the same subject matter to determine what constitutes a permanent foundation for assessment purposes. Lee County Board of Review v. Property Tax Appeal Board, 278 Ill.App.3d at 720. The Property Tax Appeal Board's interpretation and definition of a permanent foundation was upheld by the appellant court. Lee County Board of Review v.

Property Tax Appeal Board, 278 Ill.App.3d 711 (2nd Dist. 1996). Furthermore, the Property Tax Appeal Board's definition and use of a permanent foundation was affirmed. Christian County Board of Review v. Property Tax Appeal Board, 368 Ill.App. 3d 792, 858 N.E.2d 909 (5th Dist 2006)

The Illinois Manufactured Housing and Mobile Home Safety Act contains a definition for a "permanent foundation." Section 2(1) of the Illinois Manufactured Housing and Mobile Home Safety Act defines a "permanent foundation" as:

a closed perimeter formation consisting of materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the frost line which shall include, but not necessarily be limited to cellars, basements, or crawl spaces, but does exclude the use of piers. (430 ILCS 115/2(1)).

The Manufactured Home Installation Code (77 Ill.Admin.Code 870) also contains a definition of "permanent foundation". Section 870.10 of the Manufactured Home Installation Code defines a permanent foundation as:

"Permanent foundation" is a continuous perimeter foundation of material, such as mortared concrete block, mortared brick, or concrete, that extends into the ground below the established frost depth and to which the home is secured with foundation bolts at least one-half inch in diameter, spaced at intervals of no more than 6 feet and within one foot of the corners, and embedded at least 7 inches into concrete foundations or 15 inches into block foundations. [430 ILCS 117/10]. (77 Ill.Admin.Code 870.10).

The Manufactured Home Community Code (77 Ill.Admin.Code 860.150) addresses the issue of immobilization of a mobile home, which appears to be analogous to having a permanent foundation. A manufactured home is considered immobilized when the following conditions are met:

a) The home shall be provided with individual utilities as defined in Section 2.8 of this Act. (77 Ill.Admin.Code 860.150(a)).

b) The wheels, tongue, and hitch shall be removed and the home shall be supported by a continuous perimeter foundation of material such as concrete, mortared concrete block, or mortared brick which extends below the established frost depth. The home shall be secured to the continuous perimeter foundation with ½ inch

foundation bolts spaced every 6 feet and within one foot of the corners. The bolts shall be imbedded at least 7 inches into concrete foundations or 15 inches into block foundations. (77 Ill.Admin.Code 860.150(b)).

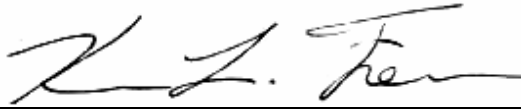
Each of these provisions provides that a permanent foundation must be a continuous perimeter formation composed of concrete, mortared concrete block, or mortared brick that extends below the frost depth and that actually supports and anchors the mobile home with bolts, but does exclude the use of piers. The Property Tax Appeal Board finds the facts under this appeal clearly show the subject dwelling at issue is a mobile home that is not resting in whole on a permanent foundation so as to be classified and assessed as real estate under the aforementioned provisions.

The Property Tax Appeal Board finds the appellant testified the subject dwelling is not bolted to or anchored in any way to the concrete block perimeter wall around the dwelling and that there is a gap between this wall and the dwelling. The appellant also submitted photographs of the underside of the subject dwelling, depicting the steel frame of the home resting on piers of unmortared concrete blocks with wood blocking or shims. The board of review submitted no evidence, nor provided any testimony to refute the appellant's testimony and evidence regarding the method of the subject dwelling's attachment to the land. Notwithstanding the board of review's apparent contention that HUD guidelines for anchoring a manufactured home in some way supersede the laws of the State of Illinois, the Property Tax Appeal Board finds the dwelling located on the subject property should not be classified and assessed as real property. Therefore, the Property Tax Appeal Board finds that a reduction in the subject's assessment is warranted in accordance with its findings.


This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member



Member



Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: August 14, 2008



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.